

United States District Court  
For the Northern District of California

10 OSVALDINA LIMA,

11 Plaintiff,

12 v.

13 WACHOVIA MORTGAGE  
14 CORPORATION, et al.,

15 Defendants.

16 NO. C09-04798 TEH

17 ORDER IMPOSING  
18 SANCTIONS AGAINST  
19 PLAINTIFF'S COUNSEL

20 The Court is in receipt of Plaintiff's Notice of Motion and Motion to Set Aside  
21 Dismissal and for Leave to File Late First Amended Complaint, filed on February 4, 2010.  
22 This Court, having granted the motion to dismiss of Defendant Wachovia Mortgage, FSB  
23 ("Wachovia") on December 14, 2009, gave Plaintiff leave to file an amended complaint  
24 within 45 days. When Plaintiff failed to amend her complaint by that deadline, the Court  
25 dismissed this matter with prejudice on February 3, 2010. Plaintiff's counsel, Paul  
26 McCarthy, moved to set aside the dismissal the following day. In his attached declaration,  
27 Mr. McCarthy attributed his failure to timely file the amended complaint to his obligations  
28 on other cases.

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1        This is the third time in four months that Mr. McCarthy has defied the deadlines set by  
2 this Court and the Civil Local Rules for the Northern District of California. First, he filed a  
3 motion for preliminary injunction three days after the November 2, 2009 deadline set in this  
4 Court's October 21, 2009 order. Second, Plaintiff's opposition to Wachovia's motion to  
5 dismiss was filed eight days after the November 23, 2009 deadline imposed by the local  
6 rules, and one day after Wachovia was due to file its reply. At that time, the Court ordered  
7 Mr. McCarthy to show cause why monetary sanctions should not be imposed for his failure  
8 to comply with the local rules and the Court's orders regarding filing dates. The Court  
9 discharged the show cause order on December 14, 2009, imposing a tentative \$250 sanction  
10 should Mr. McCarthy again fail to comply with the rules. Plaintiff's failure to timely file a  
11 first amended complaint triggers the tentative sanction.

12       Therefore, for good cause appearing, the Court hereby ORDERS the imposition of a  
13 \$250 sanction against Plaintiff's counsel, Mr. Paul McCarthy (California Bar No. 139497),  
14 for his repeated defiance of this Court's orders and the local rules. Mr. McCarthy shall pay  
15 \$250 to the Clerk of the Court no later than **Monday, March 29, 2010**. By that date, Mr.  
16 McCarthy shall also file a declaration stating that he has paid the above sanction, and that he  
17 has read and understands this Court's standing orders and the local rules.

18  
19 **IT IS SO ORDERED.**

20  
21 Dated: 2/18/10

  
22        Thelton E. Henderson  
23        THELTON E. HENDERSON, JUDGE  
24        UNITED STATES DISTRICT COURT

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